



# Supreme Court Act 1981

## 1981 CHAPTER 54

### PART III

#### PRACTICE AND PROCEDURE

##### THE COURT OF APPEAL

###### *Composition of court*

#### **54 Court of civil division**

- (1) This section relates to the civil division of the Court of Appeal; and in this section "court", except where the context otherwise requires, means a court of that division.
- (2) A court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of an uneven number of judges not less than three.
- (3) Where—
  - (a) part of any proceedings before a court has been heard by an uneven number of judges greater than three; and
  - (b) one or more members of the court are unable to continue,the court shall remain duly constituted for the purpose of those proceedings so long as the number of members (whether even or uneven) is not reduced to less than three.
- (4) A court shall, if it consists of two judges, be duly constituted for the purpose of—
  - (a) hearing and determining any appeal against an interlocutory order or interlocutory judgment;
  - (b) hearing and determining any appeal against a decision of a single judge acting by virtue of section 58(1);
  - (c) hearing and determining any appeal where all the parties have before the hearing filed a consent to the appeal being heard and determined by two judges ;

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- (d) hearing the remainder of, and determining, any appeal where part of it has been heard by three or more judges of whom one or more are unable to continue and all the parties have consented to the remainder of the appeal being heard, and the appeal being determined, by two remaining judges ; or
  - (e) hearing and determining an appeal of any such description or in any such circumstances not covered by paragraphs (a) to (d) as may be prescribed for the purposes of this subsection by an order made by the Lord Chancellor with the concurrence of the Master of the Rolls.
- (5) Where—
- (a) an appeal has been heard by a court consisting of an even number of judges ; and
  - (b) the members of the court are equally divided,
- the case shall, on the application of any party to the appeal, be re-argued before and determined by an uneven number of judges not less than three, before any appeal to the House of Lords.
- (6) An application to the civil division of the Court of Appeal for leave to appeal to that court may be determined by a single judge of that court, and no appeal shall lie from a decision of a single judge acting under this subsection.
- (7) In any cause or matter pending before the civil division of the Court of Appeal a single judge of that court may at any time during vacation make an interim order to prevent prejudice to the claims of any parties pending an appeal.
- (8) Subsections (1) and (2) of section 70 (assessors in the High Court shall apply in relation to causes and matters before the civil division of the Court of Appeal as they apply in relation to causes and matters before the High Court.
- (9) Subsections (3) and (4) of section 70 (scientific advisers to assist the Patents Court in proceedings under the Patents Act 1949 and the Patents Act 1977) shall apply in relation to the civil division of the Court of Appeal and proceedings on appeal from any decision of the Patents Court in proceedings under those Acts as "they apply in relation to the Patents Court and proceedings under those Acts.
- (10) Any order under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

## **55 Court of criminal division**

- (1) This section relates to the criminal division of the Court of Appeal; and in this section " court " means a court of that division.
- (2) A court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of an uneven number of judges not less than three.
- (3) Where—
- (a) part of any proceedings before a court has been heard by an uneven number of judges greater than three; and
  - (b) one or more members of the court are unable to continue,
- the court shall remain duly constituted for the purpose of those proceedings so long as the number of members (whether even or uneven) is not reduced to less than three.

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- (4) A court shall, if it consists of two judges, be duly constituted for every purpose except—
- (a) determining an appeal against—
    - (i) conviction; or
    - (ii) a verdict of not guilty by reason of insanity ; or
    - (iii) a finding of a jury under section 4 of the Criminal Procedure (Insanity) Act 1964 (unfitness to plead) that a person is under a disability ;
  - (b) determining an application for leave to appeal to the House of Lords ; and
  - (c) refusing an application for leave to appeal to the criminal division against conviction or any such verdict or finding as is mentioned in paragraph (a)(ii) or (iii), other than an application which has been refused by a single judge.
- (5) Where an appeal has been heard by a court consisting of an even number of judges and the members of the court are equally divided, the case shall be re-argued before and determined by an uneven number of judges not less than three.

**56 Judges not to sit on appeal from their own judgments, etc.**

- (1) No judge shall sit as a member of the civil division of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal from a judgment or order made in any case by himself or by any court of which he was a member.
- (2) No judge shall sit as a member of the criminal division of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal against—
- (a) a conviction before himself or a court of which he was a member; or
  - (b) a sentence passed by himself or such a court.